

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA CRAFT and U.S. POSTAL SERVICE,
BLUEBONNET STATION, Austin, TX

*Docket No. 03-789; Submitted on the Record;
Issued May 21, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether appellant has more than a 12 percent permanent loss of use of her left arm.

On November 6, 2001 appellant, then a 49-year-old clerk, filed a claim for a traumatic injury to her back and left shoulder sustained on that day when she lifted a tub of flats.

The Office of Workers' Compensation Programs accepted that appellant sustained a thoracic strain.

On July 23, 2002 appellant filed a claim for a schedule award.

In response to the Office's request to rate appellant's permanent impairment using the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), appellant's attending physician, Dr. James Shaw, a chiropractor, referred appellant to Dr. Albert C. Molnar, a Board-certified physiatrist, for an impairment rating. In a report dated September 25, 2002, Dr. Molnar stated that appellant's grip in her forearm was decreased because of pain in her shoulder and that, in examining her left "shoulder, at first, it barely moves. Then, as I passively rotate the left shoulder, it had a sudden give and, from that point on, it moved normally and pain-free." Dr. Molnar concluded that appellant "may well have a subluxing left shoulder," but that a magnetic resonance imaging (MRI) scan was needed to rate her permanent impairment.

In a report dated October 22, 2002, Dr. Molnar stated that an MRI of the left shoulder showed “a mild AC [acromioclavicular] joint degeneration with a type III acromion, rotator cuff tendinosis, no rotator cuff tear, cystic degeneration in the humeral head and a mildly atrophic supraspinatus muscle belly.” Dr. Molnar concluded that appellant had reached maximum medical improvement, and stated:

“For the shoulder, I used Table 16-23 on page 502. This lady has mild joint impairment, excessive passive joint deviation and also crepitation in both active and passive range of motion. Thus, this is a 20 percent joint impairment of the shoulder. We used a 60 percent multiplier for this impairment. Thus it is a 12 percent upper extremity impairment.”

On November 27, 2002 an Office medical adviser reviewed Dr. Molnar’s October 22, 2002 report and stated that it showed a 12 percent permanent impairment of the left arm. He also stated: “Dr. Molnar also notes impairment for the lower extremity and gait abnormality but these were not considered as the request was for evaluation of the LUE (left upper extremity).”

On January 13, 2003 the Office issued appellant a schedule award for a 12 percent permanent loss of use of the left arm.

The Board finds that appellant has no more than a 12 percent permanent loss of use of her left arm.

The examining physician, Dr. Molnar, rated appellant’s impairment of the left shoulder as mild, which according to Table 16-23 of the fifth edition of the A.M.A., *Guides*, constitutes a 20 percent joint impairment. This table states that the percent of joint impairment is multiplied by the relative value of the joint found in Table 16-18. Dr. Molnar multiplied the 20 percent by the 60 percent value for the glenohumeral joint from Table 16-18¹ to conclude that appellant had a 12 percent permanent impairment of the left arm. There is no evidence that appellant has a greater impairment of the left arm.

On appeal, appellant does not contend that she has more than a 12 percent permanent impairment of the left arm. Her contention is that she should have also received a schedule award for the legs.

The only Office decision in the case record is the Office’s January 13, 2003 schedule award for a 12 percent permanent impairment of the left arm. As the record does not contain a final Office decision on appellant’s entitlement to a schedule award for the legs, the Board does not have jurisdiction to decide whether appellant has such an impairment.²

¹ Dr. Molnar also multiplied by 60 percent, although he did not indicate which joint from Table 16-18 was used.

² Under 20 C.F.R. § 501.3(c), the Board has “jurisdiction to consider and decide appeals from the final decision of the Office in any case arising under the [Federal Employees’ Compensation] Act.”

The January 13, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
May 21, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member